

CSD 1160 [05/15/03]

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UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA 325 West "P" Street, San Diego, California 92101-6991	
In Re ROQUE ALBERTO AVILA	BANKRUPTCY NO. 09-06996 PB13
Debtor.	
AMERICREDIT FINANCIAL SERVICES INC. AS ASSIGNEE FROM LONG BEACH ACCEPTANCE CORP.	RS NO. CJL-1
Moving Party	
ROQUE ALBERTO AVILA; DAVID L. SKELTON	Chapter 13
Respondent(s)	

MOTION FOR RELIEF FROM AUTOMATIC STAY

REAL PROPERTY **PERSONAL PROPERTY**

Movant in the above-captioned matter moves this Court for an Order granting relief from the automatic stay on the grounds set forth below.

1. A Petition under Chapter 7 11 12 13 was filed on 05/21/09.
2. Procedural Status:
 - a. Name of Trustee Appointed (if any): **DAVID L. SKELTON**
 - b. Name of Attorney of Record for Trustee (if any):
 - c. (Optional) Prior Filing Information:
Debtor has previously filed a Bankruptcy Petition on: _____
If applicable, the prior case was dismissed on: _____
 - d. (If Chapter 13 case): Chapter 13 Plan was confirmed on N/A or a confirmation hearing is set for 11/04/09.

Movant alleges the following in support of its Motion:

1. The following real property is the subject of this Motion:
 - a. Street address of the property including county and state:
 - b. Type of real property (e.g., single family residence, apartment building, commercial, industrial, condominium, unimproved):
 - c. Legal description of property is attached as Exhibit A.

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d. If a chapter 11 or 13 case and if non-payment of any post-petition payment is a ground for relief, attach the accounting required by Local Bankruptcy Rule 4001-2(a)(4) as Exhibit B.

e. *Fair market value of property as set forth in the Debtor's schedules: \$_____.

f. *Nature of Debtor's interest in the property:

2. The following personal property is the subject of this Motion (describe property):
2007 TOYOTA YARIS; VIN #JTDJT923875132086

a. Fair market value of property as set forth in the Debtor's schedules: \$_____.

b. Nature of Debtor's interest in the property: **BUYER**

3. *Fair market value of property according to Movant: \$ **10,500.00**.

4. *Nature of Movant's interest in the property: **LIENHOLDER**

5. *Status of Movant's loan:

a. Balance owing on date of Order for Relief:	\$ 14,051.83
b. Amount of monthly payment:	\$ 385.97
c. Date of last payment:	07/24/09
d. If real property,	
i. Date of default:	_____
ii. Notice of Default recorded on:	_____
iii. Notice of Sale published on:	_____
iv. Foreclosure sale currently scheduled for:	_____
e. If personal property,	
i. Pre-petition default: \$ N/A	No. of months: N/A
ii. Post-petition default: \$ 767.91	No. of months: 2

6. (If Chapter 13 Case, state the following):

a. Date of post-petition default:	07/18/09
b. Amount of post-petition default:	\$ 767.91

7. Encumbrances:

a. Voluntary encumbrances on the property listed in the Schedules or otherwise known to Movant:

Lender Name	Principal Balance	(IF KNOWN)		Post-Petition Arrearages Total Amount - # of Months
		Pre-Petition Arrearages	Total Amount - # of Months	
1st:				
2nd:				
3rd:				
4th:				
Totals for all Liens:	\$ 0.00	\$ 0.00		\$ 0.00

b. Involuntary encumbrances of record (e.g., tax, mechanic's, judgment and other liens, lis pendens) as listed in schedules or otherwise known to Movant:

See attached page, if necessary.

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8. Relief from the automatic stay should be granted because:

- Movant's interest in the property described above is not adequately protected.
- Debtor has no equity in the real property personal property described above and such property is not necessary to an effective reorganization.
- The property is "single asset real estate", as defined in 11 U.S.C. § 101(51B), and 90 days (or _____ days as ordered by this court) have passed since entry of the order for relief in this case, and
 - the Debtor/Trustee has not filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; and
 - the Debtor/Trustee has
 - not commenced monthly payments to each creditor whose claim is secured by the property (other than a claim secured by a judgment lien or by an unmatured statutory lien), or
 - commenced payments, but such payments are less than an amount equal to interest at a current fair market rate on the value of each creditors' interest in the property.
- *Other cause exists as follows (specify): See attached page.

When required, Movant has filed separate Declarations pursuant to Local Bankruptcy Rule 4001-2(a)(5) and (6).

Movant attaches the following:

- Other relevant evidence:
SEE DECLARATION ATTACHED HERETO
- (Optional) Memorandum of points and authorities upon which the moving party will rely.

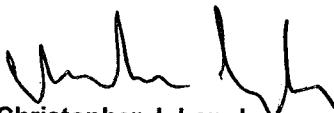
WHEREFORE, Movant prays that this Court issue an Order granting the following:

Relief as requested.

Other: **That the Order granting relief be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter.**

That the 10-day stay prescribed by Bankruptcy Rule 4001(a)(3) by waived.

Dated: September 18, 2009


/s/ Christopher J. Langley

[Attorney for] Movant
CHRISTOPHER J. LANGLEY